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PROCUREMENT APPEAL
IN THE OFFICE OF PUBLIC ACCOUNTABILITY

In the Appeal of

Core Tech International Corp.,

Appellant.

and

Guam Department of Public Works,

Purchasing Agency.

DOCKET NO. OPA-PA-17-009

**STIPULATION AND ORDER TO
BIFURCATE FORMAL HEARING AND
STAY RETALIATION CLAIM**

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Appellant Core Tech International Corp. (“Core Tech”) and the Department of Public Works (“DPW”), by and through their respective undersigned counsel, hereby jointly submit this Stipulation and Order to Bifurcate Formal Hearing in this Appeal involving Lease Financing for Design, Renovation, Rehabilitation, Construction and Maintenance of Simon Sanchez High School” Project No. 730-5- 1057-L- YIG (the “IFB”).

The parties stipulate as follows:

1. Core Tech has alleged the following two issues in this Appeal:
 - a. Whether DPW incorrectly and improperly included a Notice of Default Regarding Claims for which there has not been a final administrative or judicial adjudication in its interpretation of “Record of Default.”

- b. Whether DPW interpreted “Record of Default” to include a disputed Notice of Default and issued its August 23, 2017 Notice of Default against Core Tech in the Route 1/Route 8 Intersection Improvements and Agana Bridges Replacement Project No. GU-DAR-T01(001) (“Agana Bridges Project”) in retaliation against Core Tech.
2. Core Tech’s retaliation claim relating to the Agana Bridges Project is one of the issues in a separate Appeal before the OPA in OPA-PA-17-010 (the “Rt. 1/Rt. 8 Appeal”).
3. The procurement record for the Rt. 1/Rt. 8 Appeal consists of over ten thousand pages of material and DPW is still producing its full procurement record to Core Tech in that Appeal.
4. The parties appeared before the Public Auditor and Hearing Officer for a Pre-Hearing Conference on November 6, 2017, at which time the Public Auditor and Hearing Officer determined that it was appropriate to resolve the retaliation claim in the Rt. 1/Rt. 8 Appeal prior to the SSHS Appeal. The parties agreed with the Public Auditor’s reasoning and consented to the hearing schedule setting the respective hearings for Rt. 1/Rt. 8 Appeal on December 13, 2017 and the SSHS Appeal on December 20, 2017.
5. During the December 13, 2017 status hearing in the Rt. 1/Rt. 8 Appeal, the Public Auditor and Hearing Officer rescheduled the formal hearing to February 5, 2018, to allow Ms. Arriola additional time to prepare for the rescheduled hearing.
6. At the December 13, 2017 hearing in the SSHS Appeal, the Public Auditor and Hearing Officer stated that they intended to proceed with the formal hearing as scheduled in this matter on December 20, 2017, despite having rescheduled the formal hearing in the Rt. 1/Rt. 8 Appeal to February 5, 2018.
7. Core Tech and DPW agree that it would be appropriate to bifurcate the formal

hearing in this Appeal.

8. The parties propose that the limited issue of whether DPW may include a Notice of Default/Termination regarding claims for which there has not been a final administrative or judicial adjudication in its interpretation of "Record of Default" for determining a bidder's responsibility be addressed at the final hearing scheduled for December 20, 2017.
9. The retaliation issue will be stayed until after the conclusion of the final hearing on Rt. 1/Rt. 8 Appeal or settlement, whichever occurs first. It would be in the best interest of the Territory to bifurcate the retaliation issue and to hold that part of the final hearing following the conclusion of the Rt. 1/R. 8 Appeal.
10. The parties agree that it is in the best interest of both parties, the Government of Guam and the SSHS students and community that DPW reissue a new IFB as soon as possible. Core Tech submits that its retaliation claim does not affect DPW's ability to reissue the IFB, and DPW concurs.

SO STIPULATED, this 15th day of December, 2017.

CIVILLE & TANG, PLLC

By: _____

JOYCE C.H. TANG

Attorneys for Appellant

Core Tech International Corp.

OFFICE OF THE ATTORNEY GENERAL
Elizabeth Barrett-Anderson, Attorney General

By: _____

THOMAS P. KEELER
Assistant Attorney General

SO ORDERED, this ____ day of December, 2017.

OFFICE OF PUBLIC ACCOUNTABILITY

By: _____

ANTHONY R. CAMACHO
Hearing Officer